

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: McPherson Analyst: Jeff Garnier Bill Number: SB 639

Related Bills: _____ Telephone: 845-5322 Amended Date: June 19, 2000

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exempt Organizations/Reporting Requirements for Raffles and Bingo

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Penal Code, this bill would permit certain exempt organizations to conduct raffles. Under the Bank and Corporation Tax Law (B&CTL), this bill would require organizations permitted under the Penal Code to conduct raffles or bingo games to report gross receipts and direct expenses from these activities on a separate line of the organization's information return.

SUMMARY OF AMENDMENT

Prior to the June 19, 2000, amendments, under the Penal Code this bill would have permitted certain exempt organizations to conduct raffles. The June 19, 2000, amendments added the reporting requirement for raffles and bingo games under the B&CTL.

Prior to the June 19, 2000, amendments, the bill did not impact the department. This analysis will discuss only the items impacting the department.

EFFECTIVE DATE

This bill would be effective on January 1, 2001, and operative for returns filed for income years beginning on or after January 1, 2002.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

7/24/00

SPECIFIC FINDINGS

Under the **current Penal Code**, the following organizations meeting specified conditions may conduct bingo games:

- ~~the~~ labor organizations;
- ~~the~~ fraternal orders;
- ~~the~~ charitable organizations;
- ~~the~~ civil organizations;
- ~~the~~ civic leagues;
- ~~the~~ pleasure clubs;
- ~~the~~ domestic fraternal societies;
- ~~the~~ mobilehome park associations; and
- ~~the~~ senior citizens organizations.

The Penal Code sets forth requirements the organization must meet to be eligible to conduct bingo games. The Penal Code also provides for penalties for organizations failing to abide by these rules.

Under the **current B&CTL**, exempt organizations are required to report income from various sources and expenses related to the income on an information return. The law generally does not require the organization to separately state the various sources of the income on the information return.

Additionally, under the **B&CTL**, disclosure of financial information of an exempt organization is prohibited. An exempt organization is treated like a general corporation for disclosure purposes. The name of the exact corporate title, corporate number, the date of commencement of business in this state, taxable year adopted, filing date of the return, name, date, and title of individuals signing affidavit to the return, due date of taxes, taxes unpaid, entity's address, and the private address of officers and directors, and status (e.g., active or dissolved) may be disclosed for corporate organizations. If an exemption is granted under state law, an exempt organization's application and underlying documents for its exempt status also may be disclosed to the public. However, public disclosure does not extend to returns filed by exempt organizations. **Federal law** permits the disclosure of financial information contained in the organization's federal exempt information return. **Federal law** does not require the gross receipts and expenses related to the operation of bingo games or raffles to be separately reported on the federal information return.

Generally, under the **B&CTL**, exempt organizations are not taxed on their income unless the income producing activity is unrelated to the exempt purposes for which exemption was granted. An exempt organization's income that is subject to tax is referred to as "unrelated business income" (UBI). For certain pleasure clubs and homeowners' associations, income from sources other than dues, fees, and assessments from members is considered UBI and subject to tax.

Under the Penal Code, **this bill** would permit the following organizations that meet specified conditions to conduct raffles:

- ~~///~~ labor organizations;
- ~~///~~ fraternal orders;
- ~~///~~ charitable organizations;
- ~~///~~ civil organizations;
- ~~///~~ civic leagues;
- ~~///~~ pleasure clubs;
- ~~///~~ domestic fraternal societies;
- ~~///~~ religious or apostolic organizations;
- ~~///~~ certain homeowner associations; and
- ~~///~~ veteran's organizations.

Under the Penal Code, **this bill** provides rules and penalties similar to the bingo game provisions that organizations must abide by in order to conduct raffles.

Under the BC&TL, **this bill** would require all organizations eligible to conduct raffles or bingo games under the Penal Code to separately state on its information return all gross receipts and directly related expenses from the conduct of raffles and bingo games. The Franchise Tax Board (FTB) would prescribe the time and manner in its rules or regulations on how the information would be stated on the information return.

POLICY CONSIDERATIONS

While this bill requires organizations to report all gross receipts from and expenses related to the conduct of raffles and bingo games, this information could not be disclosed on an individual basis. The author's staff has indicated that this reporting requirement could be used to report to the Legislature the aggregate gross receipts and expenses associated with bingo games and raffles.

REGULATIONS

This bill would require the FTB to prescribe rules or regulations on how bingo game and raffle income and expenses would be reported on the organization's information return.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs. The cost estimates to key two additional lines on the Exempt Organization Business Income Tax Return (Form 109) and the Exempt Organization Annual Information Return (Form 199) is \$90,000. There are approximately 144,000 exempt organizations.

Tax Revenue Estimate

Except for certain pleasure clubs and homeowner's associations, this bill would have no identifiable revenue impact. The revenue increase from certain pleasure clubs and homeowner's associations due to this bill would be negligible.

BOARD POSITION

Pending.